



Jason A. Lief (JAL-7742)
McDERMOTT WILL & EMERY LLP
340 Madison Avenue
New York, N.Y. 10017

Attorneys for Plaintiff and
Counterclaim-Defendant
NOVOGEN RESEARCH PTY. LTD.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
NOVOGEN RESEARCH PTY. LTD.	:	Civil Action No. 06-CV-1857 (BSJ)
	:	
Plaintiff,	:	
	:	
vs.	:	NOVOGEN RESEARCH PTY. LTD'S
	:	REPLY TO COUNTERCLAIMS
CHATTEM, INC.	:	
	:	
Defendant.	:	
-----X		

Plaintiff Novogen Research Pty. Ltd. ("Novogen") hereby answers the
Counterclaim of Chattem, Inc. ("Chattem") as follows:

REPLY TO COUNTERCLAIM FOR DECLARATORY JUDGMENT

1. Chattem incorporates herein by reference paragraphs 1-18 set forth above.

NOVOGEN REPLY:

Paragraphs 1-18 of Chattem's Answer are incorporated by
reference in Chattem's Counterclaim. To the extent that Chattem has
alleged patent invalidity, patent non-infringement, improper venue, laches
or equitable estoppel or has in any other way denied or disputed
Novogen's allegations in the referenced paragraphs 1-18, Novogen herein
denies Chattem's assertions.

2. This is an action for judgment declaring that the claims of the '380 and '098 patents are invalid, and that Chattem is not infringing, and has not infringed, any of the claims of either of those patents, either directly, or by inducing or contributing to infringement by others. The '380 and '098 patents are attached as Exhibits A and B to Novogen's Complaint.

NOVOGEN REPLY:

Novogen admits that defendant Chattem has brought a Declaratory Judgment Counterclaim for Invalidity and Noninfringement of the '380 and '098 patents, but denies those actual allegations of Invalidity and Non-infringement.

3. Counterclaim-Plaintiff Chattem is a corporation organized and existing pursuant to the laws of Tennessee having its principal place of business at 1715 West 38th Street, Chattanooga, Tennessee 37409.

NOVOGEN REPLY: ADMITTED.

4. Counterclaim-Defendant Novogen has averred that it is an Australian corporation having its principal place of business in New South Wales, Australia.

NOVOGEN REPLY: ADMITTED.

5. This Counterclaim arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.* This Court has subject matter jurisdiction of this counterclaim pursuant to 28 U.S.C. §§ 1331, 1338(a) and 2201(a).

NOVOGEN REPLY: ADMITTED.

6. This Court has personal jurisdiction over Counterclaim-Defendant Novogen because Novogen has submitted to the personal jurisdiction of the Court by filing its Complaint in this action.

NOVOGEN REPLY: ADMITTED.

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) because Counterclaim-Defendant Novogen is subject to personal jurisdiction in this Judicial District. Venue also is proper in this Judicial District pursuant to 28 U.S.C. § 1391(d) because Counterclaim-Defendant Novogen has averred that it is an alien.

NOVOGEN REPLY:

Novogen admits that venue is proper in this Judicial District.

8. As a consequence of the allegations of patent infringement made by Novogen against Chattem in Novogen's Complaint, an actual controversy exists between Chattem and Novogen regarding the validity and infringement of the '380 and '098 patents.

NOVOGEN REPLY: ADMITTED.

9. Novogen has averred that it is the owner, by assignment, of the '380 patent titled "Methods for Treating or Reducing Predisposition to Breast Cancer, Pre-Menstrual Syndrome or Symptoms Associated with Menopause By Administration of Phyto-Estrogen," which issued on May 13, 2003.

NOVOGEN REPLY: ADMITTED.

10. Novogen has averred that it is the owner, by assignment, of the '098 patent titled "Health Supplement," which issued on January 17, 2006.

NOVOGEN REPLY: ADMITTED.

11. Chattem is not infringing, contributing to the infringement of, or inducing the infringement of, and has not infringed, contributed to the infringement of, or induced the infringement of any of the claims of the '380 or '098 patents.

NOVOGEN REPLY: DENIED.

12. Each of the claims of the '380 and d'098 patents is invalid for failure to comply with the Patent Laws of the United States, including the conditions and requirements for patentability set forth in 35 U.S.C. §§ 101 *et seq.*

NOVOGEN REPLY: DENIED.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment:

- A. As set forth in Plaintiff's Complaint;
- B. Denying Defendant Chattem's Request for Declarations of Invalidity and Non-infringement of the '380 and '098 patents; and

C. Awarding Plaintiff such further relief as the Court may deem just and proper.

Dated this 2nd day of May, 2006

NOVOGEN RESEARCH PTY. LTD.

By: Jason A. Lief
Jason A. Lief
McDERMOTT WILL & EMERY LLP
340 Madison Avenue
New York, NY 10017
(212) 547-5444

CERTIFICATE OF SERVICE

I hereby certify that a copy of NOVOGEN RESEARCH PTY. LTD.'S REPLY
TO COUNTERCLAIM was served by First Class Mail this 2nd day of May, 2006 on:

Courtland L. Reichman
KING & SPALDING LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309-3521

John P. Hanish
KING & SPAULDING LLP
1185 Avenue of the Americas
New York, New York 10036

Maureen H. Corrao